

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION**

JIMMY L. HAYES,

Plaintiff,

VS.

DR. AINA, DR. AJIBADE, BROWN
KEYES, and MARY HARRIS,

Defendants.

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CASE NO. 4:05-CV-122 (CDL)
42 U.S.C. § 1983

REPORT AND RECOMMENDATION

On December 30, 2005, Plaintiff filed a Motion for a Preliminary Injunction. In his Memorandum in support of the motion, Plaintiff asks the Court to order that the Defendant provide him with medication for Hepatitis C, for which he has been diagnosed. He claims that the Defendants are violating his Eighth Amendment rights by not providing him with adequate medical care at Rutledge State Prison.

In this circuit there is a four-factor test for granting a preliminary injunction.

To be entitled to injunctive relief, the moving party must establish that (1) there is a substantial likelihood that he will ultimately prevail on the merits of the claim; (2) he will suffer irreparable injury unless the injunction issues; (3) the threatened injury to the movant outweighs whatever damage the proposed injunction may cause the opposing party; and (4) the public interest will not be harmed if the injunction should issue.

Gangloff v. Poccia, 888 F. Supp. 1549, 1560 (1995) (citations omitted). In the present case, Plaintiff Hayes does not meet the four factors of the test. Specifically, on February 10, 2006, the Defendants filed a Motion to Dismiss, which was responded to by the Plaintiff on

February 23, 2006. Thereafter, a Report & Recommendation, recommending that the Defendants' Motion to Dismiss be granted, was filed on April 19, 2006. Pending the adoption of the Recommendation, then, it is recommended that Plaintiff's Motion for a Preliminary Injunction be denied as the likelihood of his prevailing on the merits of his claim is quite improbable.

WHEREFORE, it is the recommendation to the United States District Judge that the Plaintiff's Motion for a Preliminary Injunction be denied.

Pursuant to 28 U.S.C. § 636(b)(1), Claimant may serve and file written objections to this recommendation with the UNITED STATES DISTRICT JUDGE within ten (10) days after being served a copy of this recommendation.

THIS the 23rd day of August, 2006.

S/ G. MALLON FAIRCLOTH
UNITED STATES MAGISTRATE JUDGE

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